

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : **PIPER, Todd Elliott**
SERIAL NO : 10/764,899
FILED : January 26, 2004
TITLE : **INBRED MAIZE LINE PH54M**

Grp./A.U. : 1638
Examiner : **MEHTA, Ashwin D.**
Conf. No. : 2639
Docket No. : **P06270US01 - PHI 1363C**

**PETITION TO WITHDRAW A TERMINAL DISCLAIMER
UNDER 37 C.F.R. § 1.182**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicant petitions to withdraw a Terminal Disclaimer inadvertently filed. A first Terminal Disclaimer was properly filed and its filing overcame the relevant double patenting rejection. This Petition is to withdraw a second Terminal Disclaimer inadvertently filed.

Adjustment date: 08/02/2007 CKHLOK
05/02/2007 INTEFSW 00000013 260084 10764899
01 FC:1464 130.00 CR

08/02/2007 CKHLOK 00000002 260084 10764899

01 FC:1462 400.00 DH

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

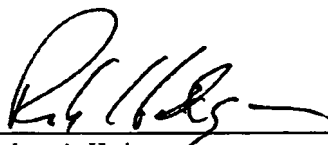
MAILING

☐ deposited with the United States Postal Service with sufficient postage as First Class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Mail Stop Petition, Alexandria, VA 22313-1450.

Date: 5/1/07

ELECTRONIC/FACSIMILE

☒ transmitted by electronic/facsimile to the Patent and Trademark Office, Art Unit 1638 at Fax No. (571) 273-8300.


Robert A. Hodgson

1. The Examiner rejected claims 19-22 and 25-27 in the Office Action of September 8, 2006 on the ground of Nonstatutory obviousness-type double patenting as being unpatentable over claims 1-30 of U. S. Patent No. 6,730,836 ('836) in view of Larkins (U.S. Patent No. 6,232,535) (Exhibit 1). Such a rejection often occurs where a child application is rejected for nonobviousness-type double patenting in view of a parent.

2. Applicant overcame this rejection by properly submitting a Terminal Disclaimer of prior Patent No. 6,730,836 (Exhibit 2) with the Amendment filed January 8, 2007 (Exhibit 3). In the Amendment, Applicant stated "Applicant is herein submitting a Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c), which disclaims any term of a patent issuing from this application which would extend beyond the term of copending U.S. Patent No. 6,730,836 in view of Larkins (U.S. Patent No. 6,232,535)."

3. In addition to the proper Terminal Disclaimer of prior Patent No. 6,730,836, a Terminal Disclaimer to Patent No. 6,232,535 was submitted with the Amendment of January 8, 2007 (Exhibit 4). This Terminal Disclaimer was not referenced in the remarks of the Amendment of January 8, 2007 and was filed in error.

4. After learning that the second Terminal Disclaimer to Patent No. 6,232,535 was filed, the undersigned attorney contacted the Examiner in a similar case that has this issue and explained the inadvertent submission of the second Terminal Disclaimer to Patent No. 6,232,535. The Examiner stated that a Petition to Withdraw the Terminal Disclaimer to Patent No. 6,232,535 would need to be filed and confirmed that the single terminal disclaimer removed the double patenting rejection.

5. Nonstatutory obviousness-type double patenting rejection of claims 19-22 and 25-27 was properly overcome by Applicant's submission of the Terminal Disclaimer of prior Patent

No. 6,730,836. The submission of the Terminal Disclaimer of prior Patent No. 6,232,535 is unnecessary to overcome this rejection.

6. Applicant accordingly hereby petitions the Office to withdraw the submitted Terminal Disclaimer of prior Patent No. 6,232,535.

7. Please charge the fee of \$130.00 for this Petition as set forth in 37 C.F.R. 1.17(h) to Deposit Account No. 26-0084. No other fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Respectfully submitted,



ROBERT A. HODGSON, Reg. No. 56,375
McKEE, VOORHEES & SEASE, P.L.C.
801 Grand Avenue, Suite 3200
Des Moines, Iowa 50309-2721
Phone No: (515) 288-3667
Fax No: (515) 288-1338
CUSTOMER NO: 27142

Attorneys of Record

- pw -

Enclosures: Exhibits 1, 2, 3 and 4

Electronic Acknowledgement Receipt

EFS ID:	1733138
Application Number:	10764899
International Application Number:	
Confirmation Number:	2639
Title of Invention:	INBRED MAIZE LINE PH54M
First Named Inventor/Applicant Name:	Todd Elliott Piper
Customer Number:	27142
Filer:	Robert Alan Hodgson./Betty Haverkamp
Filer Authorized By:	Robert Alan Hodgson.
Attorney Docket Number:	P06270US01 - PHI 1363
Receipt Date:	01-MAY-2007
Filing Date:	26-JAN-2004
Time Stamp:	14:48:00
Application Type:	Utility

Payment information:

Submitted with Payment	yes
Payment was successfully received in RAM	\$ 130
RAM confirmation Number	13
Deposit Account	260084

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:
Charge any Additional Fees required under 37 C.F.R. Section 1.16 and 1.17

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)	Multi Part /.zip	Pages (If appl.)
1	Petition for review by the Office of Petitions.	1363C_PIPER_PETITION_05-01-07_RAH.pdf	1698486	no	43
Warnings:					
Information:					
2	Fee Worksheet (PTO-06)	fee-info.pdf	8164	no	2
Warnings:					
Information:					
Total Files Size (in bytes):			1706650		
<p>This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.</p> <p><u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.</p> <p><u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.</p> <p><u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.</p>					